

manner as the Secretary of the Treasury or his delegate may prescribe) to have this paragraph apply, such beneficiary shall be entitled to the benefits of section 1403(c)(2) of the Reform Act [Pub. L. 99-514, set out as an Effective Date; Transition Rule note above] with respect to amounts included in gross income under section 664(b) of the 1986 Code in the same manner as if such amounts were included in gross income under section 652(a) of the 1986 Code.

“(2) Any trust beneficiary may elect (at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe) to waive the benefits of section 1403(c)(2) of the Reform Act.

“(3)(A) For purposes of determining the gross income of any pass-thru entity, such pass-thru entity shall not be allowed the benefits of section 806(e)(2)(C) [Pub. L. 99-514, set out as an Effective Date of 1986 Amendment note under section 1378 of this title] (other than with respect to income from a common trust fund) or 1403(c)(2) of the Reform Act if such pass-thru entity is required to change its taxable year by reason of the amendments made by section 806 or 1403 of the Reform Act [Pub. L. 99-514, which enacted this section and amended sections 267, 441, 706, and 1378 of this title].

“(B) For purposes of subparagraph (A), the term ‘pass-thru entity’ means any trust, partnership, S corporation, or common trust fund.

“(4) If any trust was required to change its taxable year by the amendments made by section 1403 of the Reform Act [Pub. L. 99-514, which enacted this section], such change shall be treated as initiated by such trust and approved by the Secretary of the Treasury or his delegate.”

#### **§ 645. Certain revocable trusts treated as part of estate**

##### **(a) General rule**

For purposes of this subtitle, if both the executor (if any) of an estate and the trustee of a qualified revocable trust elect the treatment provided in this section, such trust shall be treated and taxed as part of such estate (and not as a separate trust) for all taxable years of the estate ending after the date of the decedent's death and before the applicable date.

##### **(b) Definitions**

For purposes of subsection (a)—

##### **(1) Qualified revocable trust**

The term “qualified revocable trust” means any trust (or portion thereof) which was treated under section 676 as owned by the decedent of the estate referred to in subsection (a) by reason of a power in the grantor (determined without regard to section 672(e)).

##### **(2) Applicable date**

The term “applicable date” means—

(A) if no return of tax imposed by chapter 11 is required to be filed, the date which is 2 years after the date of the decedent's death, and

(B) if such a return is required to be filed, the date which is 6 months after the date of the final determination of the liability for tax imposed by chapter 11.

##### **(c) Election**

The election under subsection (a) shall be made not later than the time prescribed for filing the return of tax imposed by this chapter for the first taxable year of the estate (determined with regard to extensions) and, once made, shall be irrevocable.

(Added Pub. L. 105-34, title XIII, §1305(a), Aug. 5, 1997, 111 Stat. 1040, §646; renumbered §645, Pub. L. 105-206, title VI, §6013(a)(1), July 22, 1998, 112 Stat. 819.)

##### **PRIOR PROVISIONS**

A prior section 645 was renumbered section 644 of this title.

##### **AMENDMENTS**

1998—Pub. L. 105-206 renumbered section 646 of this title as this section.

##### **EFFECTIVE DATE**

Pub. L. 105-34, title XIII, §1305(d), Aug. 5, 1997, 111 Stat. 1041, provided that: “The amendments made by this section [enacting this section and amending section 2652 of this title] shall apply with respect to estates of decedents dying after the date of the enactment of this Act [Aug. 5, 1997].”

#### **§ 646. Tax treatment of electing Alaska Native Settlement Trusts**

##### **(a) In general**

If an election under this section is in effect with respect to any Settlement Trust, the provisions of this section shall apply in determining the income tax treatment of the Settlement Trust and its beneficiaries with respect to the Settlement Trust.

##### **(b) Taxation of income of trust**

Except as provided in subsection (f)(1)(B)(ii)—

##### **(1) In general**

There is hereby imposed on the taxable income of an electing Settlement Trust, other than its net capital gain, a tax at the lowest rate specified in section 1(c).<sup>1</sup>

##### **(2) Capital gain**

In the case of an electing Settlement Trust with a net capital gain for the taxable year, a tax is hereby imposed on such gain at the rate of tax which would apply to such gain if the taxpayer were subject to a tax on its other taxable income at only the lowest rate specified in section 1(c).

Any such tax shall be in lieu of the income tax otherwise imposed by this chapter on such income or gain.

##### **(c) One-time election**

##### **(1) In general**

A Settlement Trust may elect to have the provisions of this section apply to the trust and its beneficiaries.

##### **(2) Time and method of election**

An election under paragraph (1) shall be made by the trustee of such trust—

(A) on or before the due date (including extensions) for filing the Settlement Trust's return of tax for the first taxable year of such trust ending after the date of the enactment of this section, and

(B) by attaching to such return of tax a statement specifically providing for such election.

##### **(3) Period election in effect**

Except as provided in subsection (f), an election under this subsection—

<sup>1</sup> See References in Text note below.